

**CITY OF MANCHESTER**  
**BOARD OF ADJUSTMENT MINUTES**  
**June 12, 2014**

**ATTENDANCE**

Chairman Kent Goddard – Present  
Member Alan Nissenbaum – Present  
Alternate Member Richard Baumann - Present

Member Dan Miller – Present  
Member Steven Moeckel – Present

**CITY OFFICIALS**

City Attorney Patrick Gunn  
P&Z Director Franz Kraintz

**COURT REPORTER**

Ms. Lauren Goodman

**ATTENDEES**

Andy and Laurie Peterson  
Fay Fetick  
Mike Lawless  
Timothy and Kathleen O'Bryan  
Eric Briemer

Case #14-V-02  
Case #14-V-03  
Case #14-V-04  
Case #14-V-05  
Case #14-V-05

**CALL to ORDER**

Chairman Goddard called the meeting to order at 6:30 p.m. and asked the Planning and Zoning Director to call the roll. The record of attendance is shown above.

**APPROVAL OF MINUTES**

A motion to approve the May 8, 2014 minutes as submitted was made by Member Nissenbaum and seconded by Alternate Member Bauman. Approved.

**NEW BUSINESS**

**A. CASE #14-V-02** – A variance request submitted by Andy & Laurie Peterson to extend their rear yard fence beyond the building line on a corner lot by 13 feet at 999 Century Oaks Drive. The property is zoned R-2A Single Family Residential.

Director Kraintz explained that as he was visiting the area on other City business, he noticed this new fence built at the corner of Big Bend Road and Century Oaks Drive (999 Century Oaks Drive). In a call back to the office and review of the records, it appeared the applicant had not obtained a fence permit. If they had come in to get the fence permit, they would have been informed that they extended their rear yard fence beyond the front building line on this corner lot by 13 feet. Instead, a Notice of Violation was issued.

Mr. Peterson, upon receiving the Notice of Violation, immediately came to City Hall to get a permit. He explained to staff that he was merely putting the fence back where it was and he had pictures to prove it. Staff informed him that the existing fence was “legally non-conforming” and was allowed to remain as is, however, when it gets replaced like it did here, it is expected to comply with the current/existing codes. Mr. Peterson’s fence does not.

Director Kraintz stated that he did not think there would be any sight visibility issues but because the fence along the rear line of 999 Century Oaks Drive was the side yard line of 1487 Big Bend

Road, the extension of the extra 13 lineal feet was an inconvenience to the neighbor in trying to pull out of their driveway. The neighbor's car, depending on its length, might jut into the roadway. However, Director Kraintz mentioned that he did not hear any reaction to the letter sent out to the property owners within 185 feet nor has he heard of any complaints as a result of this fence being there.

Mr. Peterson corroborated the information supplied by Director Kraintz. The Board of Adjustment members questioned the two speakers. Member Miller asked Director Kraintz if he knew whether Big Bend Road would be widened to which he said he had not heard such plans. Member Moeckel asked if the utilities wanted to work in their easement which exists between the fence and the property line, would this fence pose any restriction. It was answered that no, the location of the existing fence would not hinder work in the easement. Mr. Peterson then affirmed that the fence had been there since they moved in there in 1991.

With all the questions satisfactorily answered, Member Moeckel made the motion to approve a variance for a fence to extend 13 feet into the front yard setback on a corner lot. Seconded by Alternate Member Baumann. The resulting vote was 5-0 in favor of granting the variance.

**B. CASE #14-V-03** – A variance request submitted by Jeffrey & Fay Fetick to extend their rear yard fence beyond the building line on a corner lot by 19 feet at 839 Mallard Woods Drive. The property is zoned R-4 Single Family Residential.

Director Kraintz explained that the Feticks had come by City Hall to obtain a permit to replace their existing fence in the rear yard of 839 Mallard Woods Drive. Being a corner lot, this encroachment is only grandfathered but when replaced, should be brought to current codes. Upon staff reviewing the site plan, they informed the Feticks that not only is the existing fence legally non-conforming in that it is already 10 feet past the building line on the Big Bend Woods street frontage, but their proposal for a new fence goes 9 feet beyond that to within 1 foot of the existing sidewalk.

Director Kraintz offered testimony that he didn't think the fence would cause too much sight distance restrictions up and down Big Bend Woods Drive since the rear yard fence is far enough away from the intersection of Mallard Woods and Big Bend Woods Drive.

Mrs. Fetick offered photos and testimony saying they wanted to maximize the size of their yard and that the proposal complied with the subdivision indentures, meets the standards of St. Louis County and the neighbors were in favor of it. Photos shown include similar kind of fences on the next block within a foot of the sidewalk.

The Board of Adjustment inquired as to whether the fence going to the west went all the way to the rear yard of their property (side yard of neighbor – 836 Heron Woods Drive) thinking that if they needed more space to expand the usable yard, they could expand it that way rather than perpetuate and actually increase the extent of the encroachment infraction towards Big Bend Woods Drive.

The Board of Adjustment took a vote on the current proposal which failed by a 3-2 vote due to the fact that it was perpetuating and potentially worsening an existing encroachment. However,

upon a motion by Member Moeckel and a second by Member Miller, the Board of Adjustment voted 5-0 to allow the Feticks to encroach with their rear yard fence on the Big Bend Woods Drive frontage of this corner lot by 10 feet, as it currently does, rather than 19 feet as originally proposed.

**C. CASE #14-V-04** – A variance application submitted by Mike Lawless of Tuscan Valley Construction LLC requests to extend a new deck at 733 Tuscan Valley Court into the rear yard setback by 5 feet. The property is zoned R-3 Single Family Residential.

Director Kraintz explained that Mr. Lawless had been given a deck permit and at the time of issuance, it complied with the rear yard setback. However, several weeks ago, Mr. Lawless approached the City and said that due to a change request by the new owner, they had to add a stairwell to the rear of the above-ground deck. The extra stairway would encroach no more than 5 feet into the rear yard setback. Director Kraintz also mentioned that there was an additional 8 foot wide strip of subdivision common ground before becoming a dense growth of grasses, scrub brush and saplings on property that the City owned and intended to keep undeveloped.

Mr. Lawless further described that the owner got a permit to put in an in-ground pool and thus felt it would work better if they could walk from their deck down to their pool. Mr. Lawless in doing this before he got approval was accommodating the request of his buyer.

Member Moeckel asked if the staircase could have been shorter so it didn't have to encroach so much. Mr. Lawless said the needed that length to make sure the stairwell met code. They looked at other places to put the stairs but they found the other alternatives would encroach into the pool.

Member Nissenbaum questioned whether the wooded lot that the City owned was walkable to which Director Kraintz said it was a pretty thick tangle of vegetation that in some areas was walkable but not intended or planned to be that way.

With all the issues discussed, Member Nissenbaum made a motion to approve the rear yard setback from 15 feet to 10 feet for the purpose of building this stairwell on the deck. The vote was 5-0.

**D. CASE #14-V-05** – A variance application submitted by Timothy and Kathleen O'Bryan requests to extend their rear yard fence beyond the building line on a corner lot by 16 feet at 1604 Carman Manor Court. The property is zoned R-2A Single Family Residential.

Director Kraintz explained that Mrs. O'Bryan came by City Hall to get a fence permit to replace their existing wooden fence. This is a corner lot and the fence was allowed to be built beyond the front building line on the Carman Oaks Court side of the lot to within 5 feet of the sidewalk or 4 feet from the property line.

Director Kraintz said he had heard from one of the residents across the street who upon being provided clarification was comfortable with the request. Because Director Kraintz saw no other fences that encroached past the front building line on this street or on any of the cul-de-sacs extending from it, he contacted the subdivision trustees to find out if the indentures did not allow this. However, he did not get an answer back from them.

Mr. O'Bryan took the stand and remarked that they built this current fence in 1992 and now wanted to upgrade their fence to an aluminum style one thus giving it more of an open visible feel. He has had approval from the trustees and he would have difficulty meeting the codes because putting the fence at the building line would create problems with his landscaping irrigation system and be right on the electric that runs to a transformer at the rear of his yard. In addition, it would no longer line up nicely with the neighbor's fence behind him (Mr. Eric Briemer at 836 Carman Oaks Court).

Mr. Briemer was called up to testify and he was in complete support of the plan and variance. Member Miller asked if there was any setback requirement for irrigation systems and Director Kraintz said not that he is aware of.

After some discussion by the members, Member Miller then made a motion to approve the variance, seconded by Alternate Member Baumann. The vote was 5-0 in favor.

### **ADJOURNMENT**

The meeting adjourned with a motion by Member Moeckel and seconded by Member Miller at 7:45 p.m.